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Wyatt, Gerber & O'Rourke LLP
99 Park Avenue
New York, NY 10016

EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3654

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/748,440

Applicant(s)

FRIEDMAN ET AL.

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-859)
Paper No(s)/Mail Date ____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

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1. In view of the newly discovered prior art, the prosecution is hereby reopened and claims 1-10 are rejected as set forth below. The late application of the prior art is regretted. The authorization to reopen prosecution under 37 CFR 1.198 for the purposes of entering the following new rejection has been granted by a Technology Center (TC) Director in accordance with M.P.E.P. 1214.04.

2. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

3. Claims 1-10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In claim 1:

i. In lines 5 and 6, the limitation "vertical corner trim stiffeners in the corners of the cab supporting the shell panel" appears to be inaccurate, as the side panels support the corner stiffeners, not the reverse. The corner trim stiffeners support the decorative panels, not the shell panel(s).

ii. It is also unclear as to how lines 5 and 6 can refer to "said shell panel" when the claim, at line 3, recites "shell panels" (plural). The limitation cannot be specific to just one shell panel when plural shell panels are previously set forth as part of the claimed combination of elements. The limitation should be amended to recite "for supporting some of said shell panels" or similar language.

iii. At the end of claim 1, the limitation "between said stiffeners" is confusing. As the claim has a first set of elements disclosed specifically as "stiffeners" the limitation could be interpreted as including only these stiffeners. As the claim also includes trim stiffeners, the limitation could be interpreted as including both types of stiffeners. Thus the claim limitation can be interpreted in slightly different manners. As both interpretations are reasonable, it is unclear as to precisely how the limitation should be interpreted.

iv. Also, claim 1 is not in proper single sentence claim form. The period at the end of line 3 should be changed to a semi-colon or comma.

b. In claim 7, lines 4-6, the limitation "which base and transom are both channel-shaped and offset outwardly from the vertical plane of said shell panels toward the elevator interior" is inaccurate. As the shell panels form three sides of the elevator cab, the base channels

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and transom channels would not be offset to all of the shell panels in the claim. Also, the term "the vertical plane of the shell panels" lacks antecedent basis within the claim, and the shell panels do not have one common vertical plane.

- c. In claim 7, line 7 and 8, the term "said panel material" lacks antecedent basis within the claims.
- d. In claim 7, line 9, the term "vertical corner trip stiffeners" appears to have a typing error and should be amended to be "vertical corner trim stiffeners".
- e. In claim 7, lines 9 and 10, the limitation "vertical corner trip stiffeners in the corners of the cab supporting the shell panel" appears to be inaccurate, as the side panels support the corner trim stiffeners, not the reverse. The corner trim stiffeners support the decorative panels, not the shell panels.
- f. It is unclear as to how claim 9 further limits the claimed invention as it only redundantly recites the limitation of line 7 of claim 7.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

6. Claim 1, as best understood, is rejected under 35 U.S.C. § 102(b) as being anticipated by Ichige, JP 7-33365 A. Ichige discloses an elevator cab construction for increasing interior cab size of elevator cab including:

(a) shell panels (walls 3) forming the interior walls of the cab with a ceiling (inherently) and

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platform (11);

- (b) stiffeners (wall joints 4) on the interior of the shell panels to provide suitable support;
- (c) vertical corner trim stiffeners (corner joint 5) in the corners of the cab supporting the shell panels; and
- (d) decorative panels (decorative material 3') mounted on the shell panels (3) on the interior of the cab and mounted between the stiffeners (wall joints 4 and corner joints 5).

7. Claim 1, as best understood, is rejected under 35 U.S.C. § 102(a) as being anticipated by Yamamura, JP 2002-265171 A. Yamamura discloses an elevator cab construction for increasing interior cab size of elevator cab including:

- (a) shell panels (4 and 24) forming the interior walls of the cab with a ceiling and platform.
- (b) stiffeners (7 and 15; see figure 2) on the interior of the shell panels (4) to provide suitable support,
- (c) vertical corner trim stiffeners (7 and 35; see figure 4) in the corners of the cab supporting the shell panel,
- (d) decorative panels (5) mounted on the shell panels (10 and 11) on the interior of the cab and mounted between the stiffeners (4/154 and 7/35).

8. Claims 1-6, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Roponen et al, WO 97/09265 in view of Mäkimattila et al, U.S. Patent No. 5,454,449. Roponen et al discloses an elevator cab construction including:

- (a) shell panels (38 and 32) forming the interior walls of the cab with a ceiling and platform.
- (b) stiffeners (23) on the interior of the shell panels to provide suitable support,
- (c) vertical corner trim stiffeners in the corners of the cab supporting the shell panel, and
- (d) decorative panels (7) mounted on the shell panels on the interior of the cab and mounted to the stiffeners (23 and 3).

Roponen et al varies from claim 1 as it shows the panels (7) mounted to the outer faces of the stiffeners (3 and 23) instead of mounted between them. Mäkimattila et al shows an elevator cab which is commonly assigned to the Kone elevator company. It includes a first embodiment in figure 1, which has a single decorative panel (wall element 6) spanning all of the stiffeners (3 and 33) along an elevator wall, and a second embodiment in figure 2, which has individual decorative panels (14) mounted between each pair of the stiffeners (3 and 33) of an elevator wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the elevator cab of Roponen et al by replacing the single, large decorative panels (7) which span the outer faces of the stiffeners along a wall, with smaller panels, each located between a pair of stiffeners, as using a single large panel and using smaller individual panels are art recognized equivalents, taught by Mäkimattila et al. The smaller panels

would also be cheaper to manufacture and easier to replace for maintenance or remodeling. The shell panels (38) of Roponen et al have openings (42) to the elevator shaft to provide ventilation through the openings in the stiffeners (3 and 23), as recited in claim 2. The stiffeners (3 and 23) are vertical and separate strips of stiff material attached vertically (integrally) to the shell panels, as recited in claim 3. Both Roponen et al and Mäkimattila et al show the decorative panels as approximately the same thickness as the vertical stiffeners, as recited in claim 4. The vertical stiffeners (3 and 23) of Roponen et al are channel-shaped, as channel shaped is a broad term, as recited in claim 5. As Roponen et al shows a floor platform with a base section (24) supporting the decorative panels from below, it would have been obvious to one of ordinary skill at the time the invention was made by applicant to use a section similar to (24) to attach the decorative panels from above at the ceiling, as recited in claim 6.

9. Claims 1 and 7-9, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bohnsack, U.S. Patent No. 3,381,438, in view of Roponen et al. Bohnsack shows a wall construction including:

- (a) shell panels (panels 4) forming the interior walls,
- (b) stiffeners (frame posts 2 or 6; see figure 2) on the interior of the shell panels to provide suitable support,
- (c) vertical corner trim stiffeners (corner structure 145; see figure 6) supporting the shell panel,
- (d) decorative panels (panels 5) mounted on the shell panels (4) and mounted between the stiffeners.

Bohnsack varies from claim the claims as it does not use the wall construction for assembling an elevator cab. Roponen et al shows a similar wall construction and uses it for assembling an elevator cab. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to use the wall construction method of Bohnsack to construct related walls, such as walls in an elevator cab, as suggested and rendered obvious by Roponen et al. The shell panels (4) of Bohnsack are attached to the ceiling and platform by a base (84) and transom (201) which channel-shaped and offset outwardly from the vertical plane of the shell panels (4) toward the elevator interior (as they extend outwardly on both sides of the shell panels) and the vertical stiffeners (2 and 6) are hat-shaped, both as recited in claim 7. The decorative panels (5) are approximately the same thickness as the vertical stiffeners (2 or 6), as recited in claim 8. The vertical stiffeners (2 and 6) are hat-shaped, as repeated in claim 9.

10. Claim 10 would be allowable if rewritten to overcome the above rejections under 35 U.S.C. 112, 2nd paragraph and rewritten to include all the limitations of base claim 7 and the intervening claims.

11. Klein, Balinski and Yamamoto et al are cited as showing related wall structures.

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12. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Mr. Michael R. Mansen, can be reached at (571) 272-6608. The fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Thomas J. Brahan/
Primary Examiner, Art Unit 3654

/David L Talbott/

Director, Technology Center 3600